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12 United States Securities and Exchange Commission

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**
16

17 **SECURITIES AND EXCHANGE**
18 **COMMISSION,**

19 Plaintiff,

20 vs.

21 **JAMMIN' JAVA CORP., dba MARLEY**
22 **COFFEE, SHANE G. WHITTLE,**
23 **WAYNE S. P. WEAVER, MICHAEL K.**
24 **SUN, RENE BERLINGER, STEPHEN B.**
25 **WHEATLEY, KEVIN P. MILLER,**
26 **MOHAMMED A. AL-BARWANI,**
ALEXANDER J. HUNTER, and
THOMAS E. HUNTER,

27 Defendants.
28

Case No. 2:15-CV-08921 SVW (MRWx)

PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
NOTICE OF MOTION AND MOTION
FOR INJUNCTIVE AND MONETARY
RELIEF

Hearing Date: August 28, 2017

Time: 1:30 pm

Hon. Stephen V. Wilson

Courtroom 10A

1 Plaintiff U.S. Securities and Exchange Commission (the “SEC”) respectfully
2 moves the Court to enter a final judgment against Defendant Wayne Weaver that:

3 (1) permanently enjoins Weaver from violating the statutes identified in the
4 SEC’s Amended Complaint – *i.e.*, Section 5 of the Securities Act of 1933 (the
5 “Securities Act”) [15 U.S.C. § 77e], Sections 10(b) and 13(d) of the Securities
6 Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b), 78m(d)], and
7 Rules 10b-5(a) and 10b-5(c), 13d-1, and 13d-2 thereunder [17 C.F.R. §§ 240.10b-5,
8 240.13d-1, and 240.13d-2];

9 (2) permanently bars Weaver from participating in an offering of penny stock
10 under Section 20(g) of the Securities Act [15 U.S.C. § 77t(g)] and Section 21(d)(6) of
11 the Exchange Act [15 U.S.C. § 78u(d)(6)];

12 (3) orders Weaver to disgorge \$47,442,101.70 in ill-gotten gains from his
13 unregistered (and fraudulent) sales of Jammin Java stock;

14 (4) orders Weaver to pay an additional \$9,393,958.48 in prejudgment interest
15 on his ill-gotten gains; and

16 (5) imposes a third-tier civil penalty against Weaver equal to the amount of
17 disgorgement pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and
18 Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

19 In support of this Motion, the SEC is contemporaneously filing (a) a
20 Memorandum in Support, and (b) the Declaration of Timothy S. Leiman (counsel for
21 the SEC) attaching copies of additional exhibits cited in the SEC’s memorandum in
22 support. The memorandum, in turn, cites to the SEC’s Statement of Uncontroverted
23 Facts (Dkt. #273) and supporting exhibits submitted in support of the SEC’s Motion
24 for Summary Judgment (Dkt. #171). The SEC also will submit a Proposed Final
25 Judgment through the Court’s ECF portal for proposed orders.
26
27
28

1 **WHEREFORE**, Plaintiff SEC respectfully requests that the Court grant the
2 SEC's Motion for Injunctive and Monetary Relief, and enter the proposed Final
3 Judgment submitted by the SEC.

4 **TO THE COURT AND ALL PARTIES AND THEIR RESPECTIVE**
5 **COUNSEL OF RECORD: PLEASE TAKE NOTICE that:**

6 On August 28, 2017 at 1:30 p.m., or as soon as possible thereafter as counsel
7 may be heard, in the above captioned matter before the Honorable Stephen V.
8 Wilson, United States District Judge, at the First Street Courthouse, 350 W. 1st
9 Street, Courtroom 10A, 10th Floor, Los Angeles, California 90012, Plaintiff United
10 States Securities and Exchange Commission shall and hereby does move for
11 injunctive and monetary relief against Defendant Wayne Weaver. The motion is
12 based on (1) the SEC's Memorandum in Support; (2) the July 10, 2017 Declaration of
13 Timothy S. Leiman, and supporting exhibits; and (3) such other matters as may be
14 presented to the Court before or at the time of the hearing.

15 Dated: July 10, 2017

Respectfully submitted,

16 /s/Timothy S. Leiman

17 Timothy S. Leiman

18 U.S. Securities and Exchange Commission

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23 **CERTIFICATE OF SERVICE**

24 Timothy S. Leiman hereby certifies that he caused the foregoing document to
25 be filed through the Court's CM/ECF system on July 10, 2017, which automatically
26 sends an electronic copy of the document to all counsel of record.
27

28 /s/ Timothy S. Leiman